UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

UNITED FOOD AND COMMERCIAL WORKERS, LOCAL 5

and

Case 32-CB-7066

TIFFANY SMITH

ORDER¹

The Union's motion to quash subpoenas ad testificandum A-891239 and A-891242 is denied. The subpoenas seek information relevant to the matter under investigation and describe with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Employer has failed to establish any other legal basis for revoking the subpoenas.² See generally *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).

Dated, Washington, D.C., April 8, 2011

WILMA B. LIEBMAN, CHAIRMAN

CRAIG BECKER, MEMBER

BRIAN E. HAYES, MEMBER

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¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² Member Hayes notes that the Union has not objected to the production of documents requested in a separate investigatory subpoena duces tecum issued to the Union's custodian of its records. Accordingly, with respect to the subpoenas ad testificandum, Member Hayes would hold the Union's petition in abeyance for thirty days to provide the Region an opportunity to file a supplemental opposition explaining what further evidence is necessary to determine if a complaint should issue, and why such evidence can only be obtained through the testimony of the Union's agents. In particular, Member Hayes would require the Region to demonstrate why it would not be sufficient to have the Union's custodian of its records verify or explain the records and documents being provided to the Region.